UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:21-cv-00595-MR

JIMMY L. ROGERS,)
Plaintiff,))
vs.)) ORDER
GASTON COUNTY DETENTION, et al.,)))
Defendants.)))

THIS MATTER is before the Court on Plaintiff's "Notice of Appeal" [Doc. 8], which the Court construes as a motion for reconsideration.

Pro se Plaintiff Jimmy L. Rogers ("Plaintiff") is a prisoner of the State of North Carolina currently incarcerated at Roanoke River Correctional Institution in Tillery, North Carolina. On November 2, 2021, Plaintiff filed this action pursuant to 42 U.S.C. § 1983. [Doc. 1]. Plaintiff failed to pay the filing fee or an application to proceed without prepayment of fees. The Clerk sent Plaintiff a Notice of Deficiency, directing him to either pay the filing fee or the required application to proceed without prepayment of fees, within 21 days of the Clerk's Notice or this action may be dismissed without prejudice. [Doc. 2]. Plaintiff failed to comply with the Notice of Deficiency, and, on

December 7, 2021, the Court dismissed this action without prejudice. [Doc. 4]. A week later, the Plaintiff moved for additional time to obtain statements for his prisoner trust fund account for the last six months, which he was never directed to do. [Doc. 6]. The Court denied this motion because this action had already been dismissed and for the other reasons stated in the Court's Order. [Doc. 7]. Plaintiff never complied with the Notice of Deficiency.

Plaintiff has now filed a "Notice of Appeal," which appears in substance to be a motion to reconsider the Court's Order dismissing this action. [Doc. 8]. As grounds, Plaintiff states that "he has taken the necessary steps to obtain his last six (6) months trust fund account...." [Id. at 3]. The Court will deny Plaintiff's motion. The Clerk clearly directed Plaintiff to either pay the filing fee or to file an application to proceed without prepayment of fees and the affidavit and provided Plaintiff with the necessary blank forms. [Doc. 2]. Plaintiff never complied with that Notice and this action was properly dismissed without prejudice. Plaintiff is not prevented from refiling this action and following the proper steps in obtaining in forma pauperis status should he so choose.

<u>ORDER</u>

IT IS, THEREFORE, ORDERED that Plaintiff's motion [Doc. 8] is DENIED.

IT IS SO ORDERED.

Signed: January 3, 2022

Martin Reidinger

Chief United States District Judge